

BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

**Advisory Opinion
No. 03-006
(Item 03-006)**

Unless permitted by a waiver, the ethics law prohibits a public employee from participating in any matter that affects, in a manner distinct from its effect on the public generally, any business in which the public employee has an economic interest. § 19A-11(a)(1)(B).¹ A member of the Human Rights Commission (HRC), a quasi-judicial commission that decides discrimination complaints, wants to respond to a Request For Proposals (RFP) issued by the Office of Human Resources (OHR) to investigate discrimination complaints filed with OHR and provide general consulting services. We conclude that the HRC member may avoid any conflict, and the necessity for a waiver, if he recuses himself from all HRC employment discrimination complaints filed by a County employee.

The HRC is a quasi-judicial administrative agency that, among other things, hears and decides employment discrimination complaints filed by County employees. Before filing with the HRC, an employee may first attempt to informally resolve his complaint by presenting it directly to the County's OHR. In order to help resolve these complaints, OHR has issued an RFP for a vendor to investigate these complaints. The RFP also seeks general "consulting services for the management of organizational communications."

A conflict may arise if the HRC member is faced with hearing an HRC complaint that he or his firm previously investigated as an OHR complaint. Because the HRC member's firm will also provide OHR with general consulting services under the RFP, any HRC complaint filed by a County employee could conceivably touch upon some service the HRC member or his firm provided to the County.

The HRC member proposes to recuse himself from all employment discrimination complaints filed by a County employee. We agree that this action would avoid any potential conflict. If the County awards the contract to his firm the HRC member must copy the Ethics Commission on his letter to HRC notifying HRC of his recusal from all employment discrimination complaints filed by a County employee.

FOR THE COMMISSION:

[signed]

Elizabeth K. Kellar, Chair

¹ Unless indicated otherwise, all references are to the Montgomery County Code (1994), as amended.